

## CHAPTER 242

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**GOVERNMENT - STATE**

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**HOUSE BILL 14-1016**

BY REPRESENTATIVE(S) Ryden and Gardner, Kagan, May, McCann, Williams, Exum, Fields, Hamner, Hullinghorst, Kraft-Tharp, Lee, Melton, Mitsch Bush, Moreno, Pabon, Pettersen, Rosenthal, Salazar, Schafer, Tyler, Young, Ferrandino; also SENATOR(S) Todd and Grantham, Newell, Carroll.

**AN ACT****CONCERNING THE DELIVERY OF PROCUREMENT TECHNICAL ASSISTANCE SERVICES.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **add** 24-48.5-121 as follows:

**24-48.5-121. Procurement technical assistance program - fund - legislative declaration - definitions.** (1) **Legislative declaration.** (a) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(I) COLORADO BUSINESSES NEED THE CAPABILITY AND CAPACITY TO COMPETE FOR GOVERNMENT CONTRACTS AT THE FEDERAL, STATE, AND LOCAL LEVELS;

(II) GOVERNMENT CONTRACTING, AT ALL LEVELS, IS A COMPETITIVE AND COMPLEX PROCESS;

(III) A PROCUREMENT TECHNICAL ASSISTANCE PROGRAM OFFERS EDUCATION, COUNSELING, AND TECHNICAL ASSISTANCE TO BUSINESSES TO COMPETE FOR GOVERNMENT CONTRACTS; AND

(IV) THE FEDERAL GOVERNMENT WILL MATCH THE STATE'S INVESTMENT IN A PROGRAM TO PROVIDE PROCUREMENT TECHNICAL ASSISTANCE.

(b) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

(I) THE CREATION OF A PROCUREMENT TECHNICAL ASSISTANCE FUND AND OPERATING TERMS ARE NECESSARY TO ENSURE THAT THE STATE PROCUREMENT TECHNICAL ASSISTANCE PROGRAM RECEIVES FEDERAL MATCHING MONEYS AND

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

PROVIDES EFFICIENT AND EFFECTIVE STATEWIDE PROCUREMENT TECHNICAL ASSISTANCE RESOURCES TO COLORADO BUSINESSES;

(II) THE PROCUREMENT TECHNICAL ASSISTANCE PROGRAM IN COLORADO IS A PUBLIC-PRIVATE PARTNERSHIP WITH A TARGET BUDGET OF AT LEAST EIGHT HUNDRED THOUSAND DOLLARS IN EACH CONTRACT YEAR TO PROVIDE PROCUREMENT TECHNICAL ASSISTANCE TO BUSINESSES THROUGHOUT THE STATE, OF WHICH FIFTY PERCENT IS PROVIDED THROUGH THE STATE BY THE STATE'S INVESTMENT AND FIFTY PERCENT IS PROVIDED BY THE FEDERAL GOVERNMENT; AND

(III) IT IS THE GENERAL ASSEMBLY'S INTENT THAT, IN EACH CONTRACT YEAR, THE OFFICE AND THE QUALIFIED ENTITY TOGETHER OBTAIN AT LEAST FOUR HUNDRED THOUSAND DOLLARS FOR THE STATE'S INVESTMENT IN THE PROCUREMENT TECHNICAL ASSISTANCE PROGRAM, WHICH WILL BE MATCHED BY THE FEDERAL GOVERNMENT AND SHALL BE USED FOR THE PURPOSES OF THE PROGRAM.

(2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CONTRACT YEAR" MEANS ONE YEAR OF THE TERM OF THE CONTRACT ENTERED INTO PURSUANT TO THIS SECTION.

(b) "MINORITY BUSINESS OFFICE" MEANS THE MINORITY BUSINESS OFFICE CREATED IN SECTION 24-49.5-102.

(c) "OFFICE" MEANS THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT CREATED IN SECTION 24-48.5-101.

(d) "PROCUREMENT TECHNICAL ASSISTANCE PROGRAM" MEANS A PROGRAM THAT PROVIDES, THROUGH A PROCUREMENT TECHNICAL ASSISTANCE CENTER FUNDED IN PART WITH FEDERAL MONEYS, GOVERNMENT PROCUREMENT CONSULTING SERVICES AT NO COST TO CLIENTS WHO ARE RESPONDING TO GOVERNMENT CONTRACT OPPORTUNITIES.

(e) "QUALIFIED ENTITY" MEANS ONE OR MORE ORGANIZATIONS EXEMPT FROM TAXATION UNDER SECTION 501 (c) (3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, THAT HAVE BEEN DESIGNATED, BY THE FEDERAL DEFENSE LOGISTICS AGENCY, AS A FEDERAL DEFENSE LOGISTICS AGENCY GRANTEE SERVING COLORADO FOR THE PROCUREMENT TECHNICAL ASSISTANCE PROGRAM TO PROVIDE PROCUREMENT TECHNICAL ASSISTANCE STATEWIDE. THE ORGANIZATIONS SHALL HAVE NO OTHER MISSION OR DELIVERABLES THAT ARE NOT CONSISTENT WITH FEDERAL ELIGIBILITY CRITERIA FOR THE PROCUREMENT TECHNICAL ASSISTANCE PROGRAM.

(f) "SMALL BUSINESS DEVELOPMENT CENTER" MEANS THE SMALL BUSINESS DEVELOPMENT CENTER BASED IN COLORADO, HOSTED BY THE OFFICE, AND FUNDED JOINTLY BY THE STATE, THE FEDERAL SMALL BUSINESS ADMINISTRATION, AND OTHER PRIVATE SOURCES.

(g) "STATE'S INVESTMENT" MEANS THE FUNDING FOR THE PROCUREMENT TECHNICAL ASSISTANCE PROGRAM THAT IS FROM THE STATE GENERAL FUND OR ANY

OTHER SOURCE OF STATE MONEYS AND FROM CASH AND IN-KIND DONATIONS OBTAINED BY THE QUALIFIED ENTITY THROUGH GIFTS, GRANTS, AND DONATIONS.

(3) **Contract.** ON OR BEFORE SEPTEMBER 15, 2014, THE OFFICE SHALL ENTER INTO A CONTRACT WITH THE QUALIFIED ENTITY OR ENTITIES THAT WERE SELECTED BY THE FEDERAL DEFENSE LOGISTICS AGENCY TO PROVIDE PROCUREMENT TECHNICAL ASSISTANCE STATEWIDE. THE CONTRACT TERM AND REQUIREMENTS SHALL BE IN EFFECT FOR UP TO SIX YEARS AND SHALL ALIGN WITH THE FEDERAL DEFENSE LOGISTICS AGENCY REQUIREMENTS FOR SUCH CONTRACT.

(4) **State's investment.** (a) IT IS THE GENERAL ASSEMBLY'S INTENT THAT IN EACH CONTRACT YEAR, THE OFFICE AND THE QUALIFIED ENTITY OBTAIN AT LEAST FOUR HUNDRED THOUSAND DOLLARS FOR THE STATE'S INVESTMENT IN THE PROCUREMENT TECHNICAL ASSISTANCE PROGRAM, WHICH WILL BE MATCHED BY THE FEDERAL GOVERNMENT AND SHALL BE USED FOR THE PURPOSES OF THE PROGRAM.

(b) IN EACH CONTRACT YEAR, THE STATE, THROUGH THE OFFICE, SHALL CONTRIBUTE THE LESSER OF THE QUALIFIED ENTITY'S CONTRIBUTION TO THE PREVIOUS CONTRACT YEAR'S STATE'S INVESTMENT OR TWO HUNDRED THOUSAND DOLLARS TO THE TOTAL AMOUNT OF THE STATE'S INVESTMENT IN THE PROCUREMENT TECHNICAL ASSISTANCE PROGRAM FOR THE THEN-CURRENT CONTRACT YEAR. THEREFORE, THE GENERAL ASSEMBLY SHALL PROVIDE NOT MORE THAN TWO HUNDRED THOUSAND DOLLARS FROM THE STATE GENERAL FUND OR FROM ANY OTHER SOURCE OF STATE MONEYS IN EACH CONTRACT YEAR.

(c) (I) THE QUALIFIED ENTITY SHALL CONTRIBUTE AT LEAST FIFTY PERCENT TO THE TOTAL AMOUNT OF THE STATE'S INVESTMENT. THEREFORE, THE QUALIFIED ENTITY SHALL OBTAIN, THROUGH THE SOLICITATION OF GIFTS, GRANTS, AND DONATIONS, AT LEAST TWO HUNDRED THOUSAND DOLLARS IN EACH CONTRACT YEAR.

(II) THE GIFTS, GRANTS, OR DONATIONS THAT THE QUALIFIED ENTITY OBTAINS MAY BE COMPRISED OF BOTH CASH AND IN-KIND CONTRIBUTIONS; EXCEPT THAT, OF THE TWO HUNDRED THOUSAND DOLLARS THAT THE QUALIFIED ENTITY IS REQUIRED TO OBTAIN IN EACH CONTRACT YEAR, AT LEAST THE FOLLOWING PERCENTAGES SHALL BE IN THE FORM OF CASH:

(A) FOR THE FIRST CONTRACT YEAR, AT LEAST FIFTEEN PERCENT;

(B) FOR THE SECOND CONTRACT YEAR, AT LEAST TWENTY PERCENT; AND

(C) FOR THE THIRD THROUGH SIXTH CONTRACT YEARS, AT LEAST TWENTY-FIVE PERCENT.

(III) IF, IN ANY CONTRACT YEAR, THE QUALIFIED ENTITY OBTAINS MORE THAN THE MINIMUM REQUIRED PERCENTAGE OF CASH CONTRIBUTIONS FOR THE APPLICABLE CONTRACT YEAR, THE QUALIFIED ENTITY MAY APPLY THE EXCESS CASH TO THE MINIMUM REQUIRED CASH CONTRIBUTION FOR THE NEXT CONTRACT YEAR.

(d) (I) BY NOVEMBER 1 OF EACH CONTRACT YEAR, THE OFFICE SHALL DETERMINE WHETHER THE QUALIFIED ENTITY OBTAINED AT LEAST TWO HUNDRED THOUSAND

DOLLARS IN GIFTS, GRANTS, OR DONATIONS AND THE MINIMUM REQUIRED CASH CONTRIBUTION AS SPECIFIED IN PARAGRAPH (c) OF THIS SUBSECTION (4) FOR THE PREVIOUS CONTRACT YEAR. IF THE OFFICE DETERMINES THAT THE QUALIFIED ENTITY FAILED TO OBTAIN THE TOTAL REQUIRED AMOUNT OF GIFTS, GRANTS, AND DONATIONS AND THE MINIMUM REQUIRED CASH CONTRIBUTION FOR THE PREVIOUS CONTRACT YEAR, THE OFFICE SHALL NOTIFY THE STATE TREASURER, AND THE STATE TREASURER SHALL TRANSFER AN AMOUNT EQUAL TO THE AMOUNT OF THE SHORTFALL FROM THE MONEYS THAT THE STATE TREASURER TRANSFERRED TO THE PROCUREMENT TECHNICAL ASSISTANCE FUND PURSUANT TO PARAGRAPH (a) OF SUBSECTION (8) OF THIS SECTION FOR THE THEN-CURRENT CONTRACT YEAR TO THE GENERAL FUND.

(II) THE OFFICE SHALL ENSURE THAT BY DECEMBER 1 OF THE THIRD CONTRACT YEAR, THE QUALIFIED ENTITY IS PROJECTED TO PROVIDE AT LEAST A CUMULATIVE AMOUNT OF SIX HUNDRED THOUSAND DOLLARS OF THE STATE'S INVESTMENT FOR THE FIRST THROUGH THIRD CONTRACT YEARS, OF WHICH AMOUNT AT LEAST ONE HUNDRED TWENTY THOUSAND DOLLARS IS IN THE FORM OF CASH. IF, BASED ON THE OFFICE'S REVIEW, THE QUALIFIED ENTITY IS NOT PROJECTED TO SATISFY SUCH REQUIREMENTS, THE OFFICE SHALL NOTIFY THE MEMBERS OF THE HOUSE OF REPRESENTATIVES AND SENATE COMMITTEES WITH JURISDICTION OVER BUSINESS ISSUES, AND THE GENERAL ASSEMBLY MAY DETERMINE WHETHER TO CONTINUE THE ANNUAL APPROPRIATION TO THE OFFICE FOR THE PURPOSES OF THE PROCUREMENT TECHNICAL ASSISTANCE PROGRAM.

(5) **Qualified entity's contract requirements.** (a) IN ADDITION TO THE MINIMUM AMOUNT THAT THE QUALIFIED ENTITY IS REQUIRED TO CONTRIBUTE TO THE STATE'S INVESTMENT IN EACH CONTRACT YEAR, THE QUALIFIED ENTITY IS REQUIRED TO PERFORM THE FOLLOWING IN EACH CONTRACT YEAR:

(I) PROVIDE PROCUREMENT TECHNICAL ASSISTANCE TO AT LEAST ONE HUNDRED BUSINESSES THAT ARE EITHER NEW OR ACTIVE CLIENTS OF THE QUALIFIED ENTITY;

(II) PROVIDE PROCUREMENT TECHNICAL ASSISTANCE IN THE FORM OF COUNSELING TO BUSINESSES FOR AT LEAST ONE THOUSAND FIVE HUNDRED HOURS; AND

(III) SPONSOR OR PARTICIPATE IN AT LEAST SIXTY-FIVE EVENTS TO INFORM THE BUSINESS COMMUNITY OF THE SERVICES AND ASSISTANCE THAT THE PROCUREMENT TECHNICAL ASSISTANCE PROGRAM PROVIDES.

(b) ON OR BEFORE OCTOBER 1 OF EACH CONTRACT YEAR, THE QUALIFIED ENTITY SHALL REPORT THE FOLLOWING INFORMATION TO THE OFFICE:

(I) THE NUMBER OF NEW AND ACTIVE BUSINESSES THAT THE QUALIFIED ENTITY SERVED, THE NUMBER OF COUNSELING HOURS IT PROVIDED, AND THE NUMBER OF EVENTS THAT IT ATTENDED DURING THE PRIOR CONTRACT YEAR;

(II) WHETHER THE QUALIFIED ENTITY OBTAINED AT LEAST TWO HUNDRED THOUSAND DOLLARS IN GIFTS, GRANTS, OR DONATIONS TOWARD ITS SHARE OF THE TOTAL STATE'S INVESTMENT DURING THE PRIOR CONTRACT YEAR, WHETHER THE QUALIFIED ENTITY OBTAINED THE REQUIRED MINIMUM AMOUNT OF SUCH

CONTRIBUTIONS IN CASH PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (c) OF SUBSECTION (4) OF THIS SECTION, AND WHAT PORTION OF THE GIFTS, GRANTS, AND DONATIONS THE QUALIFIED ENTITY USED DURING THE PRIOR CONTRACT YEAR; AND

(III) ANY OTHER INFORMATION REQUESTED BY THE OFFICE.

(6) **Reporting.** IN EACH CONTRACT YEAR, THE OFFICE SHALL INCLUDE IN THE ANNUAL REPORT SUBMITTED TO THE GENERAL ASSEMBLY PURSUANT TO SECTION 24-48.5-101 (7) THE INFORMATION THAT THE QUALIFIED ENTITY PROVIDED TO THE OFFICE PURSUANT TO PARAGRAPH (b) OF SUBSECTION (5) OF THIS SECTION.

(7) **Memorandum of understanding.** THE MINORITY BUSINESS OFFICE, THE SMALL BUSINESS DEVELOPMENT CENTER, AND THE QUALIFIED ENTITY SHALL ENTER INTO A MEMORANDUM OF UNDERSTANDING TO ADDRESS THE FOLLOWING ISSUES IN CONNECTION WITH THE PROCUREMENT TECHNICAL ASSISTANCE PROGRAM:

(a) THE NATURE AND DELIVERY OF THE PROGRAMS AND SERVICES THAT WILL BE OFFERED BY THE QUALIFIED ENTITY THROUGH THE PROCUREMENT TECHNICAL ASSISTANCE PROGRAM AND THE METHOD BY WHICH THOSE PROGRAMS WILL BE ALIGNED WITH THE PROGRAMS OFFERED BY THE SMALL BUSINESS DEVELOPMENT CENTER AND THE MINORITY BUSINESS OFFICE;

(b) A SCHEDULE FOR PERIODIC MEETINGS BETWEEN THE DIRECTORS OF THE QUALIFIED ENTITY, THE SMALL BUSINESS DEVELOPMENT CENTER, THE MINORITY BUSINESS OFFICE, AND ANY OTHER RELEVANT ENTITIES WITHIN THE OFFICE AT THE STATE AND REGIONAL LEVELS;

(c) A METHOD FOR TRACKING THE CROSS-REFERRAL OF CLIENTS BETWEEN THE QUALIFIED ENTITY, THE SMALL BUSINESS DEVELOPMENT CENTER, AND THE MINORITY BUSINESS OFFICE;

(d) A METHOD FOR COORDINATING AND ORGANIZING THE JOINT PARTICIPATION OF THE QUALIFIED ENTITY, THE SMALL BUSINESS DEVELOPMENT CENTER, AND THE MINORITY BUSINESS OFFICE AT OUTREACH EVENTS AND THROUGH OTHER MARKETING OPPORTUNITIES;

(e) A PLAN FOR THE QUALIFIED ENTITY, THE SMALL BUSINESS DEVELOPMENT CENTER, AND THE MINORITY BUSINESS OFFICE TO SHARE LOCATIONS, WHERE POSSIBLE, THROUGHOUT COLORADO; AND

(f) ANYTHING ELSE DEEMED NECESSARY AND APPROPRIATE BY THE QUALIFIED ENTITY, THE SMALL BUSINESS DEVELOPMENT CENTER, AND THE MINORITY BUSINESS OFFICE.

(8) **Fund.** (a) THE PROCUREMENT TECHNICAL ASSISTANCE CASH FUND IS CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF:

(I) TWO HUNDRED TWENTY THOUSAND DOLLARS THAT THE STATE TREASURER IS REQUIRED TO TRANSFER FROM THE GENERAL FUND TO THE FUND ON JULY 1, 2015, AND JULY 1 OF THE NEXT FOUR YEARS THEREAFTER; AND

(II) ANY MONEYS THAT THE GENERAL ASSEMBLY APPROPRIATES TO THE FUND.

(b) TO ALLOW ALIGNMENT BETWEEN STATE AND FEDERAL FISCAL YEARS, THE MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE OFFICE TO BE USED FOR THE PROCUREMENT TECHNICAL ASSISTANCE PROGRAM. THE OFFICE MAY USE THE MONEYS IN THE FUND TO PAY FOR THE COSTS OF ADMINISTERING THE PROCUREMENT TECHNICAL ASSISTANCE PROGRAM; EXCEPT THAT THE OFFICE'S ADMINISTRATIVE EXPENSES FOR THE PROGRAM IN A FISCAL YEAR SHALL NOT EXCEED NINE PERCENT OF THE MONEYS TRANSFERRED TO THE FUND IN A FISCAL YEAR PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (8).

(c) ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND ARE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

(d) THE TRANSFERS TO THE FUND FROM THE GENERAL FUND MONEYS THAT ARE REQUIRED BY SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (8) MUST BE INCLUDED FOR INFORMATIONAL PURPOSES IN THE ANNUAL GENERAL APPROPRIATION ACT.

**SECTION 2. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 21, 2014